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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 **In the Matter of the Accusation Against:**

Case No. *2013-858*

13 **SUSAN LEE FAUSETT**
14 **A.K.A. SUSAN E. LEE FAUSETT**
15 **A.K.A. SUSAN FERNE LEE FAUSETT**
16 **777 7th Street NW #304**
17 **Washington, DC 20001**
18 **Registered Nurse License No. 530303**

ACCUSATION

Respondent.

19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
22 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
23 Consumer Affairs.

24 2. On or about February 27, 1997, the Board of Registered Nursing issued Registered
25 Nurse License Number 530303 to Susan Lee Fausett (Respondent). The Registered Nurse
26 License was in full force and effect at all times relevant to the charges brought in this Accusation
27 and will expire on July 31, 2014, unless renewed.

28 **OTHER LICENSE HISTORY**

3. On or about October 13, 2004, the Delaware Board of Registered Nursing issued
Registered Nurse License No. 11-0032773 to Susan E. Lee Fausett. Delaware Registered Nurse

1 License No. 11-0032773 expired on September 30, 2007, and has not been renewed.

2 4. On or about September 3, 1984, the Florida Board of Registered Nursing issued
3 Registered Nurse License No. 1559692 to Susan Ferne Lee Fausett. Florida Registered Nurse
4 License No. 15 59692 expired on July 31, 1998, and has not been renewed.

5 5. On or about May 17, 1989, the Tennessee Board of Registered Nursing issued
6 Registered Nurse License No. 79617 to Susan L. Fausett. Tennessee Registered Nurse License
7 No. 79617 expired on December 31, 1990, and has not been renewed.

8 JURISDICTION

9 6. This Accusation is brought before the Board of Registered Nursing (Board),
10 Department of Consumer Affairs, under the authority of the following laws. All section
11 references are to the Business and Professions Code unless otherwise indicated.

12 7. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part,
13 that the Board may discipline any licensee, including a licensee holding a temporary or an
14 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
15 Nursing Practice Act.

16 8. Section 118, subdivision (b), of the Code provides that the suspension, expiration,
17 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
18 disciplinary action during the period within which the license may be renewed, restored, reissued
19 or reinstated.

20 9. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
21 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
22 licensee or to render a decision imposing discipline on the license: Under section 2811,
23 subdivision (b), of the Code, the Board may renew an expired license at any time within eight
24 years after the expiration.

25 STATUTORY/REGULATORY PROVISIONS

26 10. Section 2761 of the Code states, in pertinent part:

27 "The board may take disciplinary action against a certified or licensed nurse or deny an
28 application for a certificate or license for any of the following:

1 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

2 ...

3 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
4 functions, and duties of a registered nurse, in which event the record of the conviction shall be
5 conclusive evidence thereof .

6 11. Section 2762 of the Code states, in pertinent part, that "[i]n addition to other acts.
7 constituting unprofessional conduct within the meaning, of this chapter [the Nursing Practice
8 Act], it is unprofessional conduct for a person licensed under this chapter to do any of the
9 following:

10 "(b) use any controlled substance as defined in Division 10 (commencing with Section
11 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
12 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
13 himself or herself, any other person, or the public or to the extent that such use impairs his or her
14 ability to conduct with safety to the public the practice authorized by his or her license.

15 "(c) Be convicted of a criminal offense involving the prescription, consumption, or self-
16 administration of any of the substances described in subdivisions a) and (b) of this section, or the
17 possession of, or falsification of a record pertaining to, the substances described in subdivision (a)
18 of this section, in which event the record of the conviction is conclusive evidence thereof."

19 12. Section 490 of the Code provides, in pertinent part, that a board may suspend or
20 revoke a license on the ground that the licensee has been convicted of a crime substantially
21 related to the qualifications, functions, or duties of the business or profession for which the
22 license was issued.

23 13. California Code of Regulations, Title 16, section 1444 states:

24 "A conviction or act shall be considered to be substantially related to the qualifications,
25 functions or duties of a registered nurse if to a substantial degree it evidences the present or
26 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
27 safety, or welfare. Such convictions or acts shall include but not be limited to the following:

28 "(a) Assaultive or abusive conduct including, but not limited to, those violations listed in

1 subdivision (d) of Penal Code Section 11160.

2 "(b) Failure to comply with any mandatory reporting requirements.

3 "(c) Theft, dishonesty, fraud, or deceit.

4 "(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the
5 Penal Code."

6 COST RECOVERY

7 14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
8 administrative law judge to direct a licentiate found to have committed a violation or violations of
9 the licensing act to pay a sum not to exceed the reasonable cost of the investigation and
10 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
11 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
12 included in a stipulated settlement.

13 FIRST CAUSE FOR DISCIPLINARY ACTION

14 (Conviction)

15 (Bus. & Prof. Code §§ 490 and 2761(f))

16 15. Respondent has subjected her Registered Nurse License to disciplinary action under
17 Code sections 490 and 2761, subdivision (f), and California Code of Regulations, Title 16,
18 section 1444, in that she was convicted of a crime substantially related to the qualifications,
19 functions, or duties of a registered nurse. Specifically, on or about May 15, 2007, in the District
20 Court of Michigan, Case Number 07 000929-OD-01, entitled *The People of the State of Michigan*
21 *v. Susan Lee Fausett*, Respondent was convicted by her plea of guilty of violating Michigan
22 Vehicle Code section 257.6253-A (operating while impaired by liquor). On or about June 19,
23 2007, Respondent was placed on probation for 12 months, upon terms and conditions, which
24 included, but not limited to, the following: pay fine of \$750; attend Alcoholic Anonymous
25 meetings 3 times a week; and continue court-ordered treatment. The factual circumstances of the
26 conviction are that on or about February 23, 2007, in the State of Michigan, Respondent drove her
27 vehicle while impaired by alcohol.
28

1 SECOND CAUSE FOR DISCIPLINARY ACTION

2 (Unprofessional Conduct - Use of Alcohol to a Dangerous Extent)

3 (Bus. & Prof. Code § 2762(b))

4 16. The allegations of paragraph 15 are hereby realleged and incorporated by reference as
5 if fully set forth.

6 17. Respondent has subjected her registered nurse license to disciplinary action under
7 Code section 2761, subdivision (a), on the grounds of unprofessional conduct, as defined in Code
8 section 2762, subdivision (b). Specifically, on or about February 23, 2007, Respondent used, and
9 was under the influence of, alcoholic beverages to an extent dangerous or injurious to herself and
10 the public, as set forth in paragraph 15, above.

11 THIRD CAUSE FOR DISCIPLINARY ACTION

12 (Unprofessional Conduct - Conviction of Crime Involving Alcohol)

13 (Bus. & Prof. Code § 2762(c))

14 18. The allegations of paragraph 15 are hereby realleged and incorporated by reference as
15 if fully set forth.

16 19. Respondent has subjected her registered nurse license to disciplinary action under
17 Code section 2761, subdivision (a), on the grounds of unprofessional conduct, as defined in Code
18 Section 2762, subdivision (c). Specifically, on or about May 15, 2007, Respondent was convicted
19 of a crime involving the consumption of alcoholic beverages, as set forth in paragraph 15, above.

20 FOURTH CAUSE FOR DISCIPLINARY ACTION

21 (Unprofessional Conduct)

22 (Bus. & Prof. Code § 2761(a))

23 20. Respondent has subjected her Registered Nurse License to disciplinary action for
24 Unprofessional conduct under Code section 2761, subdivision (a). The circumstances are as
25 follows:

26 a. On or about December 11, 2009, in Petaluma, California, a California Highway
27 Patrol (CHP) pulled over Respondent, who was weaving her vehicle, a Lincoln, in freeway lanes.
28

1 Once pulled over, the CHP officer observed that Respondent's speech was slurred, and smelled
2 the subtle and distinct odor of an alcoholic beverage on Respondent's breath/person. Respondent
3 admitted to drinking three glasses of wine at dinner. The CHP officer also observed that
4 Respondent's eyes were red and watery. Respondent told the CHP officer that she has chronic
5 back pain and problems with her shoulders, and added that she was taking medication and would
6 not be able to perform some field sobriety tests. Nonetheless, the CHP officer requested that
7 Respondent perform a series of field sobriety tests (FSTs). Respondent did not satisfactorily
8 perform the FSTs as explained and demonstrated. Based on Respondent's objective signs of
9 intoxication, her admission of having consumed alcoholic beverages and her unsatisfactory
10 performance of the FSTs, the CHP officer concluded that Respondent was driving under the
11 influence of alcohol. Respondent was arrested for driving under the influence of alcohol, and
12 requested a breath test of her blood alcoholic content (BAC). Two breath tests both showed that
13 her BAC was .11% and .11 %.

14 FIFTH CAUSE FOR DISCIPLINARY ACTION

15 (Conviction)

16 (Bus. & Prof. Code §§ 490 and 2761(f))

17 21. Respondent has subjected her Registered Nurse License to disciplinary action under
18 Code sections 490 and 2761, subdivision (f), and California Code of Regulations, Title 16,
19 section 1444, in that she was convicted of a crime substantially related to the qualifications,
20 functions, or duties of a registered nurse. Specifically, on or about April 28, 2010, in the
21 Superior Court of California, County of Sonoma, Case Number SCR-575809, entitled *The People*
22 *of the State of California v. Susan Lee Fausett*, Respondent was convicted by her plea of no
23 contest of violating Vehicle Code section 23152, subdivision (b), (driving with a blood alcohol
24 content of .08% or more), a misdemeanor. The imposition of sentencing was suspended, and
25 Respondent was placed on probation for 36 months upon terms and conditions, which included,
26 but not limited to, the following: serve 2 days in County Jail, with credit for time served of 2
27 days; pay fine of \$2,075; obey all laws; do not drive with any alcohol in system; do not drive
28

1 without a valid California license and insurance in effect; and enroll within 30 days in 9 month
2 DUI program and complete it as directed.

3 SIXTH CAUSE FOR DISCIPLINARY ACTION

4 (Unprofessional Conduct - Use of Alcohol to a Dangerous Extent)

5 (Bus. & Prof. Code § 2762(b))

6 22. The allegations of paragraphs 20 and 21 are hereby realleged and incorporated by
7 reference as if fully set forth.

8 23. Respondent has subjected her registered nurse license to disciplinary action under.
9 Code section 2761, subdivision (a), on the grounds of unprofessional conduct, as defined in Code
10 section 2762, subdivision (b). Specifically, on or about December 11, 2009, Respondent used,
11 and was under the influence of, alcoholic beverages to an extent dangerous or injurious to herself
12 and the public, as set forth in paragraphs 21 and 22, above.

13 SEVENTH CAUSE FOR DISCIPLINARY ACTION

14 (Unprofessional Conduct - Conviction of Crime Involving Alcohol)

15 (Bus. & Prof. Code § 2762(c))

16 24. The allegations of paragraphs 20 and 21 are hereby realleged and incorporated by
17 reference as if fully set forth.

18 25. Respondent has subjected her registered nurse license to disciplinary action under
19 Code section 2761, subdivision (a), on the grounds of unprofessional conduct; as defined in Code
20 section 2762, subdivision (c). Specifically, on or about April 28, 2010, Respondent was
21 convicted of a crime involving the consumption of alcoholic beverages, as set forth in paragraphs
22 20 and 21, above.

23 PRAYER

24 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
25 and that following the hearing, the Board of Registered Nursing issue a decision:

26 1. Revoking or suspending Registered Nurse License Number 530303, issued to Susan
27 Lee Fausett;

28 2. Ordering Susan Lee Fausett to pay the Board of Registered Nursing the reasonable

1 cost of the investigation and enforcement of this case, pursuant to Business and Professions Code
2 section 125.3; and

3 3. Taking such other and further action as deemed necessary and proper.

4 DATED:

April 3, 2013

for Anne Bern
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California

Complainant

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